PROSECUTOR LAURA E. MABINI, COMPLAINANT, VS. EUSTACIO RAGA, LEGAL RESEARCHER, AND LILIA CARNACETE-RAGA, PROCESS SERVER, REGIONAL TRIAL COURT, CATBALOGAN, SAMAR, BRANCH 27 AND BR...

A.M. No. P-06-2150. June 21, 2006

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PER CURIAM:

Before us is an administrative complaint filed by Prosecutor Laura E. Mabini, Office of the Provincial Prosecutor, Catbalogan, Samar, against spouses Eustacio C. Raga, Jr., officer-in-charge and legal researcher of Branch 27; and Lilia C. Raga, process server of Branch 28, both of the Regional Trial Court of Catbalogan, Samar. Mabinis letter-complaints dated February 7, 1997,[1] February 19, 1997,[2] and May 19, 1997[3] charged respondent spouses with violations of Office of the Court Administrator (OCA) Circular No. 4-91,[4] gross misconduct, participation in partisan political activity, violation of the Anti-Graft and Corrupt Practices Act,[5] and qualified theft, committed as follows:

> "1. Respondent spouses extort money from litigants and lawyers and solicit contributions from politicians and businessmen using the name of the court, especially during courts social affairs;
>
> "2. Respondents actively participates in partisan political activities;
>
> "3. Mrs. Raga stole a set of jewelry of Atty. Rebecca G. Almeda, former Clerk of Court, RTC, Catbalogan, Samar;
>
> "4. Mrs. Raga uses government money to visit her children studying in Baguio City under the guise of official travels;
>
> "5. Mr. Raga, a Bachelor of Laws graduate and enrolled in a refresher course at Christ the King College, Calbayog City, leaves his office at 4:00 oclock in the afternoon to be able to catch the last trip to Calbayog City to attend his classes which usually start at 5:30 p.m.;
>
> "6. Mrs. Raga, together with a relative, Mrs. Anita Rojas, also a court employee, tried to induce complainant, then the Acting IBP Treasurer to withdraw Ten Thousand Pesos (P10,000.00) from the IBP fund for catering expenses of the IBP Samar Chapter Christmas party;

> "7. Mrs. Raga wastes her time by distributing during office hours poisonous letters about Judge Sibanah E. Usman, RTC, Branch 28, Catbalogan, Samar portraying Judge Usman as corrupt, and claiming that Judge Usmans wife, an employee of Branch 29, has been receiving her salary despite being absent for two (2) months; and
>
> "8. On 11 August 1996, Mrs. Raga and her sister took home the stenographic machine of Branch 29 without the knowledge and consent of Judge Auxencio Dacuycuy, then Presiding Judge of that court and Officer-in-Charge Gerardo Geli, Jr.[6]

The OCA issued two separate indorsements, both dated November 24, 1997[7] requiring respondents to file their respective answers to the letter-complaints filed against them.

On January 26, 1998, the OCA received the answers[8] of respondent spouses. They denied all the charges leveled against them and called attention to the dearth of supporting evidence. They maintained that complainant Mabini was just getting back at them, because respondent Lilia had earlier filed administrative and criminal complaints against Mabini.[9]

Respondents deny soliciting contributions from provincial public officials.[10] Respondent Lilia argues that these public officials voluntarily donate to court employees during Christmas and other special occasions. In the alternative, she maintains that even if it were true that they had solicited contributions, the act would not fall under Circular No. 4-91, which prohibits only solicitations for raffles and athletic tournaments, and fund-raising projects of barangays.[11]

As for the allegation that respondents are involved in partisan political activities, respondent spouses maintain that they never go beyond expressing their preference for a particular candidate and monitoring the results of the canvassing. They contend that the fact that some of their relatives are active in politics does not necessarily imply that they are, too.[12]

Respondent Eustacio also denies the allegation that he leaves work at 4:00 p.m. to attend 5:30 p.m. classes in Calbayog City. He points out that this accusation is not supported by any concrete proof.[13]

As for the charge of malversation of public funds, respondent Lilia asserts that her out-of-town trips on official business are always properly documented and supported by certificates of appearance.[14]

Respondent Lilia also refutes the charge of jewelry theft by presenting the Affidavit[15] of Rebecca Almeda, the alleged victim. Almeda denies knowledge of the alleged theft.

As regards the theft of the stenographic machine, Lilia offers an alibi. She maintains that it was physically impossible for her to commit the alleged crime on August 11, 1996, because she was on official travel in Manila from August 5 to 9, 1996.[16] In her defense, she has presented as proofs the Certificate of Appearance dated August 5, 1996,[17] Supreme Court Gate Pass No. 96-0632 dated August 5, 1996,[18] and her Bus Ticket No. 55504 with the departure date August 10, 1996.[19] She also contends that the allegedly stolen stenotype machine was not, in fact, reported missing and was even included in the Inventory Report of Property of December 31, 1996.[20]

In the light of the contentious issues presented and the inhibition of Judges Sinforiano A. Monsanto[21] and Sibanah E. Usman,[22] this Court issued its February 19, 2001 Resolution,[23] referring the case to the executive judge of the RTC of Calbayog City, Branch 32 for investigation, report, and recommendation.

In a letter dated September 5, 2005, then Court Administrator Presbitero J. Velasco, Jr.[24] asked Executive Judge

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Roberto A. Navidad for an update on the status of the investigation. On November 22, 2005, the OCA received the explanation and Investigation Report of Judge Navidad. The contents of his Report[25] are amply summarized by the OCA, as follows:

> In his Investigation Report dated 18 March 2005, Judge Navidad recommended the dismissal of all the charges against respondents except the charge of theft of stenographic machine. According to Judge Navidad, complainant failed for more than three (3) years, to present evidence and witnesses to substantiate the other charges. Complainant confided to Judge Navidad that witnesses are afraid to testify because of fear of reprisals from respondents.
>
> However, as to the theft of stenographic machine, Judge Navidad recommended that appropriate sanctions be imposed for grave misconduct committed by Mrs. Raga as principal to the crime and Mr. Raga as accomplice.
>
> During the hearing, Gerardo Geli, Jr., Officer-in-Charge of Branch 29 testified that he discovered that the stenographic machine was missing when he conducted an inventory of the courts equipment. He immediately reported the loss to the Chief of Police of Catbalogan and also sought the assistance of his friends and compadres, including the brother of Mrs. Raga, Jesus Carnacete, Process Server of Branch 29. Thereafter, the machine was returned to the place from where it was taken.
>
> Maribel Velarde, Stenographer of Branch 29, testified that during the time the subject stenographic machine was missing, she saw it in the house of the respondents. The statement of Velarde was corroborated by the entry in the logbook made by Security Guard Rogelio Felas which states that Mrs. Raga, with her sister Aida C. Valera, had taken home said machine on 11 August 1996.[26]

The OCA found no evidence to implicate respondent Eustacio C. Raga, Jr. in the theft of the stenographic machine. Hence, it recommended the dismissal of the complaint against him.[27] As for respondent Lilia C. Raga, she was found administratively liable for grave misconduct and dishonesty. According to the OCA, the positive testimony of stenographer Maribel Velarde and the logbook entry made by security guard Rogelio Felas sufficiently overcame respondents denials. The OCA therefore recommended the dismissal of Lilia C. Raga from service.[28]

The findings and recommendations of the OCA are well-taken.

Indeed, the charges of partisan political activity, jewelry theft, distribution of poison letters and malversation of public funds are all unsubstantiated and should thus be dismissed.

Complainants allegation that respondents participated in partisan political activity has not been proven. Complainant does not even specify what partisan political activities respondents have supposedly engaged in. Her complaint consisted of a single sentence, which reads: [Respondents] are also well known in the locality [for] their active participation in partisan political activity, a violation of the Civil Service Law.[29] The records of the case yield no evidence in support of this particular charge.

Further, the allegation of jewelry theft has no leg to stand on. Even the alleged victim, Rebecca G. Almeda, denied losing a set of jewelry. Instead, she maintained that she had sold a set of jewelry to respondent Lilia, who had since then paid for the set in full.[30]

The charge of distribution of poison letters against the judges was also left unsubstantiated. There is no iota of evidence that respondents were either the authors or the distributors of the two unsavory letters[31] attached to the Complaint.

Likewise, complainant failed to adduce any shred of evidence supporting her allegation that respondent Eustacio usually left the office at 4:00 p.m. in order to attend his law refresher courses in Calbayog City.[32]

As for the charge of malversation of public funds, complainant contends that respondent Lilia obtained a reimbursement for a bogus official business in Manila. As proof, complainant presented PAL Ticket No. 079-4207797655-5[33] with departure date of October 18, and issued to a certain Corazon Latorre. Respondent Lilia allegedly tampered with Latorres PAL ticket to make it appear as her own and, hence, obtain reimbursement.[34]

Lilia denies this allegation and maintains that the evidence against her was fabricated.[35] In support of her defense, she has presented PAL Ticket No. 079-4107055470-0,[36] which also bore the departure date of October 18.

Unfortunately, complainant did not adduce any further evidence to convince this Court that the allegedly tampered PAL ticket of Latorre was actually the basis for respondents reimbursement. As it stands, respondents contrary evidence seriously casts doubts on the veracity of the charge.

In administrative proceedings, the complainant has the burden of proving, by substantial evidence, the allegations in her complaint.[37] As correctly observed by the OCA, herein complainant failed to prove that respondents were guilty of partisan political activity, jewelry theft, distribution of poison letters and malversation of public funds. The acts imputed to them remained mere accusations because of complainants failure to present witnesses or corroborating evidence. We therefore dismiss all the foregoing charges against respondents.

With regard to the charge of unlawful solicitations, complainant presented a letter signed by Branch 28 employees, including respondent Lilia, thanking Governor Roño for his donation of P1,500.00.[38]

Respondent contends that her receipt of the governors Christmas gift cannot be considered an unlawful solicitation, which is prohibited by OCA Circular No. 4-91, because the gift was unsolicited and not intended for a fund-raising project.[39]

Respondents contentions are untenable. First of all, OCA Circular No. 4-91 is not limited to fund-raising solicitations. It prohibits all forms of solicitations and receipt of contributions, as indicated in its circular quoted below:

> Henceforth, all personnel of the lower courts under the administrative supervision of the Office of the Court Administrator are strictly enjoined from making any form of solicitation for contributions as it is strictly prohibited by law. Consequently, all those found soliciting for and/or receiving contributions, in cash or in kind, from any person, whether or not a litigant or lawyer, will be dealt with severely in accordance with the sanctions prescribed by law.[40]

This broad interpretation is further supported by the Code of Conduct and Ethical Standards,[41] which is the law that prohibits solicitations by public officials and employees. Section 7 (d) of the code states thus:

> Public officials and employees shall not solicit or accept, directly or indirectly, any gift, gratuity, favor, entertainment, loan or anything of monetary value from any person in the course of their official duties or in

> connection with any operation being regulated by, or any transaction which may be affected by the functions of their office.[42]

Clearly, a gift is covered by the prohibition, so long as it has more than nominal monetary value. It is not necessary for the solicitation to be for a fund-raising project.

Second, respondent Lilia cannot take refuge in the fact that the gift was actually unsolicited, because the mere receipt of gifts is prohibited. Section 3(d) of Republic Act No. 6713 defines receiving any gift as follows:

> [T]he act of accepting directly or indirectly, a gift from a person other than a member of his family or relative x x x if the value of the gift is neither nominal nor insignificant, or the gift is given in anticipation of, or in exchange for, a favor.[43]

The foregoing provision does not distinguish between solicited and unsolicited gifts. As stated earlier, the mere receipt of gifts is prohibited, so long as the value of the gift is neither nominal nor insignificant; or the gift is given in anticipation of, or in exchange for, a favor.

In other words, the mere fact that the gift received was unsolicited cannot, by itself, suffice to exonerate the recipient. It would only suffice to exonerate the recipient if the unsolicited gift is also nominal in value and not given in anticipation of, or in exchange for, a favor. In such a situation, the gift would fall outside the purview of RA 6713, which expressly provides that the term gift does not include an unsolicited gift of nominal or insignificant value[;] not given in anticipation of, or in exchange for, a favor from a public official or employee.[44]

In this regard, we have pored over the records of the case and found no proof whatsoever that a solicitation took place. We then note that the cash gift of P1,500.00 was received not by respondent Lilia alone, but together with eleven other employees of Branch 28, to purchase lechon for their Christmas party;[45] hence, the individual benefit of the employees may be considered nominal. Neither does it appear from the evidence that the nominal gift was given in anticipation of, or in exchange for, a favor.

Thus, respondent Lilia cannot be held liable under Republic Act No. 6713 because the governors gift, aside from being unsolicited, was also nominal or insignificant in value; and not given in anticipation of, or in exchange for, a favor. The receipt of the gift does not fall within the ambit of Section 7(d) of RA 6713, in relation to Sections 3(c) and (d).

Nevertheless, we cannot let this incident pass without issuing a reminder to court personnel. The conduct and behavior of all officials of an agency involved in the administration of justice, from the presiding judge to the most junior clerk, should be circumscribed with a heavy burden of responsibility.[46] Court employees should be careful to avoid all actions that may reasonably give rise to the suspicion that they can be influenced.[47] The solicitation and acceptance of gifts from anyone -- public officials, litigants, or the public -- corrode public confidence in the judicial system. For the purpose of addressing this problem, the Court has promulgated the Code of Conduct for Court Personnel,[48] which took effect on June 1, 2004. Section 2, Canon I of the code, expressly provides thus:

> Sec. 2. Court personnel shall not solicit or accept any gift, favor or benefit based on any explicit or implicit understanding that such gift, favor or benefit shall influence their official actions.

We now move on to the more substantial charge of dishonesty and grave misconduct consisting of the theft of a

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stenographic machine. Complainant presented the following as proof of respondent Lilias culpability:

1. Certified true copy of the logbook entry made by the guard-on-duty, Rogelio A. Felas. The entry states that on August 11, 1996, Lilia Ragas and a certain Aida Valera entered the Bulwagan ng Katarungan at 10:10 a.m. and left at 11:05 a.m., bringing with them a steno type machine with Serial No. 8004288[49]

2. Testimony of Maribel Velarde, court stenographer of Branch 29, that she saw the subject machine in respondents house[50]

3. Testimony of Gerardo Geli, Jr., legal researcher and acting clerk of court of Branch 29, that he reported to the PNP-Catbalogan[51] the loss of the subject machine upon his discovery of the fact on March 12, 1997

He likewise testified that the machine mysteriously resurfaced after he had asked Lilias brother, Jesus Carnacite, to help him recover it.[52]

In her defense, respondent presented evidence to prove that she was on official travel to Manila from August 5-9, 1996,[53] and could not have committed the imputed crime.

What is noticeable from the evidence presented by respondent is the fact that they do not categorically place her in Metro Manila on the date of the theft, August 11, 1996. Her Supreme Court Gate Pass[54] and her Certificate of Appearance[55] were both dated August 5, 1996. Her bus ticket to Catbalogan revealed that she left Manila at 9:30 a.m. on August 10, 1996.[56] By her own admission, she arrived in Catbalogan on the day when the theft occurred, August 11, 1996, albeit at 2:00 p.m.,[57] which was four hours after the alleged theft.

It is well-settled that alibi prevails only if it is shown that it was physically impossible for the accused to have been at the locus criminis at the time of the commission of the crime.[58] It is clear from the foregoing evidence that it was not impossible for respondent Lilia to be at the Bulwagan ng Katarungan at 10 a.m. of August 11, 1996. Her bare assertion that she was still on the road at the time of the theft is unsubstantiated and belied by the logbook entry of the guard-on-duty, Rogelio Felas.

Making logbook entries was part of his duties as a security guard of the Bulwagan. Therefore, it carried the presumption that official duty had been regularly performed,[59] unless and until overcome by contrary evidence. As correctly pointed out by the investigating judge and the OCA, respondent has not shown any ill motive that could have impelled Felas to make an erroneous entry in the logbook and to falsely implicate respondent.[60]

Further, court stenographer Maribel Velarde testified that she had seen the stolen property in Lilias house.[61] Her positive testimony corroborated the logbook entry made by Felas.

Lilia even strengthened Velardes testimony by admitting that this witness had actually stayed in respondents home during the relevant period.[62] In explaining that she had shared her home with Velarde, who was beset by marital problems,[63] Lilia herself gave adequate basis for the said testimony.

Moreover, it has not been shown that the testimony of the witness was malicious or perjured. To the contrary, her testimony deserves credence, because it was given despite the debt of gratitude she owed respondent. It is not in accord with ordinary human experience that a friend would make up stories and falsely implicate someone who helped her in a time of dire need.

We thus find that the charge against respondent Lilia C. Raga has been sufficiently established. The denials interposed by respondent cannot prevail over the positive testimony of complainants witness or over the logbook entry made in the performance of official duty. Denial is a self-serving negative defense that cannot be given greater weight than the declaration of a credible witness who testifies on affirmative matters.[64]

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There is no shortage of cases on court employees grave misconduct involving theft. The prevailing jurisprudence reveals the Courts intense disapproval of these acts.

In the Matter of the Loss of One (1) Tamaya Transit, an Exhibit in Criminal Case No. 193[65] involves the loss of court exhibits, which turned out to have been taken by respondent for his personal gain. He was found guilty of dishonesty and grave misconduct and was consequently dismissed from service.

In The Court Administrator v. Sevillo,[66] process server William Sevillo was also dismissed from service when he was found guilty of stealing mail matter from the post office.

In Re: Jovelita Olivas and Antonio Cuyco,[67] respondent Olivas was found guilty of grave misconduct and dismissed from service for taking several pieces of plyboard from the Court of Appeals compound.

Re: Report on the Series of Theft and Robbery in the Premises of the Supreme Court[68] is another case of dismissal for grave misconduct of security personnel, who were found guilty of stealing personal properties of court employees.

Considering the prevailing jurisprudence and the foregoing facts, the Court agrees with the recommendation of the investigating judge[69] and the Office of the Court Administrator[70] that Lilia C. Raga should be dismissed from the service for grave misconduct. Such penalty is provided for in Rule XIV, Sec. 23(c), on grave offenses of the Omnibus Rules Implementing Book V of E.O. No. 292. This penalty is reiterated in Civil Service Memorandum Circular No. 30, series of 1989;[71] and again in Civil Service Memorandum Circular No. 19, series of 1999.[72] The latter likewise states that the penalty of dismissal from the service shall carry with it the cancellation of civil service eligibility, forfeiture of retirement benefits, and perpetual disqualification from reemployment in the government service, unless otherwise provided in the decision.[73]

On the other hand, we find no culpability on the part of respondent Eustacio C. Raga, Jr. Consequently, the recommendation of the Office of the Court Administrator[74] to dismiss the case against him is adopted.

The Court cannot overemphasize the need for honesty and integrity on the part of all those who are in the service of the judiciary.[75] As reiterated in the Whereas clauses of the Code of Conduct for Court Personnel,[76] in performing their duties and responsibilities, court personnel serve as sentinels of justice[;] and any act of impropriety on their part immeasurably affects the honor and dignity of the Judiciary and the peoples confidence in it.[77]

In fact, no less than the Constitution sanctifies the principle that a public office is a public trust, and enjoins all public officers and employees to serve with the highest degree of responsibility, integrity, loyalty and efficiency.[78] Public officials and employees are under obligation to perform the duties of their office honestly, faithfully and to the best of their ability.[79]

In this regard, respondent Lilia has been grossly deficient. By stealing court property, she has blatantly degraded the judiciary and diminished the respect and regard of the people for the court and its personnel. Consequently, she does not deserve to stay a minute longer in the judicial service.

WHEREFORE, Lilia C. Raga is found GUILTY of GRAVE MISCONDUCT. She is hereby DISMISSED from service, with forfeiture of all benefits excluding accrued leave credits, if any; and with prejudice to re-employment in any branch or agency of the government. The Complaint against Eustacio C. Raga, Jr. is DISMISSED for lack of merit.

SO ORDERED.

Panganiban, C.J., Puno, Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Austria-Martinez, Corona, Carpio Morales, Callejo, Sr., Azcuna, Tinga, Chico-Nazario, and Garcia, JJ., concur

Velasco, Jr., J., no part due to prior action of OCA.

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[1] Rollo, pp. 2-3.

[2] Id. at 4-5.

[3] Id. at 6.

[4] Re: Letter-Complaint against Solicitations for Contributions by Court Personnel (May 31, 1991).

[5] Republic Act No. 3019 (1960).

[6] OCA Memorandum dated February 3, 2006, pp. 1-2.

[7] Rollo, p. 32.

[8] Id. at 34-38 and 53-62.

[9] Id. at 34 and 53.

[10] Id. at 35 and 54.

[11] Id. at 54-55.

[12] Id. at 36 and 55-56.

[13] Id. at 37.

[14] Id. at 56 and 58-60.

[15] Id. at 78.

[16] Answer, p. 9; rollo, p. 61.

[17] Rollo, p. 81.

[18] Id. at 82.

[19] Id. at 84.

[20] Id. at 85-86.

[21] Letter dated April 5, 2000. In a Resolution dated August 21, 2000, this Court granted Judge Monsantos request to inhibit himself from the case (rollo, p. 96).

[22] Letter dated September 25, 2000 (rollo, p. 98). Judge Usmans request to be allowed to inhibit himself from the case was granted in this Courts Resolution dated February 19, 2001 (rollo, p. 99).

[23] Id.

[24] Now an associate justice of the Supreme Court.

[25] Dated March 18, 2005.

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[26] OCA Memorandum dated February 3, 2006, pp. 3-4.

[27] Id. at 4-5.

[28] Id.

[29] Rollo, p. 2.

[30] Id. at 78.

[31] Id. at 29-30.

[32] Id. at 2.

[33] Id. at 14.

[34] Id. at 13.

[35] Answer, pp. 6-8; rollo, pp. 58-60.

[36] Rollo, p. 79.

[37] Montes v. Mallare, 422 SCRA 309, February 6, 2004; Aguilar v. How, 455 Phil. 237, July 31, 2003; Cortes v. Agcaoili, 355 Phil. 848, August 20, 1998.

[38] Rollo, p. 31.

[39] Answer, pp. 2-3; rollo, pp. 54-55.

[40] OCA Circular No. 4-91. Emphasis supplied.

[41] Republic Act No. 6713 (1989).

[42] Emphasis supplied.

[43] Emphasis supplied.

[44] Republic Act No. 6713 (1989), Sec. 3 (c). Underscoring supplied.

[45] Rollo, p. 31.

[46] Nuez v. Cruz-Apao, A.M. No. CA-05-18-P, 455 SCRA 288, April 12, 2005.

[47] Re: An Undated Letter with the Heading "Expos" of a Concerned Mediaman on the Alleged Illegal Acts of Judge Julian C. Ocampo III of the Municipal Trial Court in Cities, Branch 1, Naga City and Clerk of Court Renato C. San Juan, MTCC Naga City, 411 Phil. 504, June 20, 2001.

[48] A.M. No. 03-06-13-SC, April 13, 2004.

[49] Rollo, p. 8.

[50] Investigation Report, p. 4.

[51] Rollo, p. 7.

[52] Investigation Report, p. 4.

[53] Answer, p. 9; rollo, p. 61.

[54] Rollo, p. 82.

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[55] Id. at 81.

[56] Id. at 84.

[57] Answer, p. 9; rollo, p. 61.

[58] Lucas v. CA, 438 Phil. 530, September 24, 2002; People v. Patalin, Jr., 370 Phil. 200, July 27, 1999.

[59] Rules of Court, Rule 131, Sec. 3 (m).

[60] Memorandum dated February 3, 2006, p. 4.

[61] Id.

[62] Investigation Report, p. 4.

[63] Id.

[64] Caca v. CA, 341 Phil. 114, July 7, 1997; People v. Mancao, 208 SCRA 573, May 8, 1992.

[65] 200 Phil. 82, June 29, 1982.

[66] 336 Phil. 931, March 20, 1997.

[67] 431 Phil. 379, May 2, 2002.

[68] 444 Phil. 674, February 3, 2003.

[69] Investigation Report, p. 6.

[70] Memorandum dated February 3, 2006, p. 5.

[71] Guidelines in the Application of Penalties in Administrative Cases.

[72] Revised Uniform Rules on Administrative Cases in the Civil Service.

[73] Id., Rule IV, Section 58 (a).

[74] Memorandum dated February 3, 2006, p. 5.

[75] Re: Report on the Series of Theft and Robbery in the Premises of the Supreme Court, supra note 68.

[76] Supra at note 48.

[77] Id. 4th Whereas clause.

[78] Constitution, Art. xi, Sec. 1.

[79] Gaviola v. Navarette, 341 Phil. 68, July 7, 1997.

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